

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**KWAME MOORE,**  
Plaintiff,

v.

**Case No. 14-CV-1376**

**DAVID CLARKE, JR.,**  
Defendant,

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**DECISION AND ORDER**

Plaintiff, Kwame Moore, who is proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983, along with a motion for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. By order dated November 6, 2014, I directed plaintiff to forward to the Clerk of Court within 21 days the sum of \$47.00 as an initial partial filing fee in this action. Plaintiff was advised that, upon payment of this fee, I would determine whether the action can proceed in forma pauperis. To date, plaintiff has not paid this partial filing fee. From this failure to pay the initial filing fee, I can infer that plaintiff no longer wants to prosecute this action.

However, before dismissing this case for failure to pay the initial fee, I must determine whether the prisoner is at fault for the non-payment. See Thomas v. Butts, 745 F.3d 309, 312-13 (7th Cir. 2014). A court may not dismiss the suit of a prisoner who has a lack of funds in the account. Id. at 312; see also § 1915(b)(4) (“In no event shall a prisoner be prohibited from bringing a civil action . . . for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.”). “But if the court finds that the prisoner is unable to pay the partial filing fee at the time of collection because he

intentionally depleted his account to avoid payment, the court in its sound discretion may dismiss the action.” Thomas, 745 F.3d at 312 (citations and internal quotation omitted).

**THEREFORE, IT IS ORDERED** that plaintiff shall show cause why this case should not be dismissed for nonpayment of the initial partial filing fee.

**IT IS FURTHER ORDERED** that on or before January 8, 2015, plaintiff shall provide the court with information regarding why the initial partial filing fee has not been paid.

**IT IS ALSO ORDERED** that a copy of this order be sent to the Milwaukee County Sheriff. A copy should also be sent to Maricela Castillo and Mary Wenten at the Milwaukee County House of Corrections.

Dated at Milwaukee, Wisconsin, this 18th day of December, 2014.

s/ Lynn Adelman

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LYNN ADELMAN  
District Judge